

Taunton Estuary Municipal Coalition

February 9, 2017

Via Email and First Class US Mail

Scott Pruitt
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

RE: Request for Peer Review of EPA Region 1's Unprecedented Use of the Sentinel Method to Impose Stringent Nitrogen Limitations

Dear Administrator Pruitt:

On behalf of the major cities discharging to the Taunton Estuary (Taunton and Fall River) and New Bedford, I am submitting this letter requesting your intervention and review of a series of unprecedented and scientifically indefensible regulatory decisions made by EPA Region 1 in an attempt to impose extremely stringent nitrogen limitations on our facilities. These NPDES permit actions represent quintessential examples of decision making based on EPA policy rather than sound science and environmental need. If left in place, these new mandates will impose well over \$100 million in new wastewater and stormwater compliance costs for our cities. Given the new administration's desire to eliminate wasteful regulation, we are hoping to obtain your assistance in staying further permit appeal proceedings and objectively reviewing the scientific concerns we had raised previously, which were all disregarded by the prior administration. The following provides some brief background on the matter.

In 2015, EPA finalized a permit imposing "state of the art" nitrogen limitations on Taunton's wastewater treatment facility after a protracted dispute regarding the need for such limitations. EPA issued a similar permit for Brockton in January, 2017, and intends similar mandates for New Bedford and Fall River, but due to ongoing appeals has not finalized those actions. EPA Region I imposed the stringent nutrient limitations even though:

1. The Taunton Estuary is not identified as nutrient impaired;

2. Three nationally recognized experts (including Dr. Steven Chapra, Tufts University of international renown) stated that EPA's novel calculation procedure (known as the "Sentinel Method") was not scientifically defensible and would clearly give an erroneous result;
3. System data, collected by Dr. Brian Howes in 2004-2006, confirmed that the stringent nitrogen limitations would not materially improve dissolved oxygen levels (the stated concern of EPA's nutrient reduction mandate), and;
4. EPA's analysis ignored all of the other system improvements occurring since 2004 that EPA itself had mandated to improve water quality in the system (including the closure of major power plants, reduction of combined sewer overflows and nutrient discharges by major Rhode Island facilities).

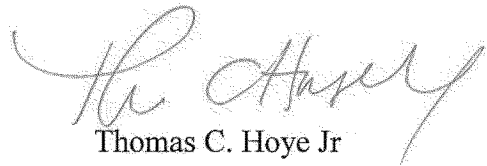
Individually, each of these errors should have warranted a remand of the permit. Even EPA Headquarters had confirmed, under FOIA, that the Region's novel procedure for claiming stringent nutrient limits were required was never peer reviewed or determined by anyone to be scientifically defensible. (Attachment 1) Nonetheless, EPA Headquarters refused a request from the *Center for Regulatory Reasonableness* to peer review the new method (in derogation of the federal Peer Review Handbook). (Attachment 2) EPA's Environmental Appeal Board (EAB) rejected all technical arguments and actively prevented consideration of the reports from independent experts confirming the Region's approach was technically baseless (See, Attachment 3, Letter of Dr. Brian Howes, Dartmouth- SMAST, who confirmed EPA was misapplying his data in reaching its conclusions). Left with little other choice, the City of Taunton appealed the EAB's decision to the First Circuit Court of Appeal (*see City of Taunton v. EPA*, (1st Cir. 16-2280)) and filed a permit modification request with EPA Region 1 to properly consider the information the EAB refused to assess in supporting EPA's permit action. Those actions are presently pending.

Requested Action

The cities believe that all permitting and appeal actions should be stayed, pending a complete scientific review of the Region's actions. An independent peer review of EPA's untested "Sentinel Method" should occur, as required by the federal Peer Review Policy, given the enormous local resources at stake. It is our belief that no group of credible scientists would possibly find this approach to be "scientifically defensible" which is why the prior administration refused to allow such review. In any event, should such review determine the Region's actions are, in fact, scientifically defensible and accurately reflect the impact of nitrogen on the DO regime of the Taunton Estuary, we would be willing to live with that result, knowing our monies will be well spent.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "The Hoyer", written in dark ink.

Thomas C. Hoyer Jr

Mayor

Enclosures

cc. David Schnare, USEPA
Don Benton, USEPA
Mayor Correia, Fall River
Mayor Mitchell, New Bedford